

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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IN RE: BAIR HUGGER FORCED AIR      MDL No.: 15-md-02666 (JNE/FLN)  
WARMING PRODUCT LIABILITY  
LITIGATION

This Document Relates To:

DAVID KILMER,

Civil Action No.: 18-CV-00460-JNE-DTS

Plaintiff,

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**DECLARATION OF DONALD C. GREEN II IN SUPPORT OF  
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Donald C. Green II, declare as follows:

1. I am an attorney at Kennedy Hodges, LLP and Counsel for Plaintiff David Kilmer in the above-captioned matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1463] filed on September 6, 2018.
3. A copy of the approved Plaintiff Fact Sheet ("PFS") for the Bair Hugger multidistrict litigation was sent by conventional mail to Mr. Kilmer on or about January 22, 2018.
4. Sending a copy of the PFS by mail is the most common method by which Kennedy Hodges requests information needed for the PFS from its clients, including Plaintiff.

5. The completed PFS was received from Mr. Kilmer by mail by Kennedy Hodges on February 14, 2018. A signed HIPAA authorization form and verification form were also received from Mr. Kilmer at this time. Based on review of the documents, those forms were signed by Mr. Kilmer and dated for January 31, 2018.
6. Mr. Kilmer's case was filed on February 16, 2018, a few days after the PFS was received. This date of filing complied with a possible statute of limitations deadline identified by counsel for Mr. Kilmer's claim.
7. Sometime after the case was filed, the information from Mr. Kilmer's filled out copy of the PFS was transferred into the Blade software system used in this litigation. The exact date that this information was entered is unknown, as to the best of my knowledge Blade does not track the date the PFS is initially created in the system, only the date on which it is submitted.
8. Based on information and belief, all information was entered into Blade and all relevant documents, including the verification, were uploaded at this time.
9. On May 18, 2018, the PFS was finalized and submitted to Defendants.
10. On June 11, 2018, Defendants issued a Deficiency Notice alleging only that the verification was deficient. There were no other alleged deficiencies with the PFS.
11. Exhibit A is a true and correct copy of the Deficiency Notice received from Defendants on June 11, 2018 regarding *Kilmer v. 3M Company et al.*, 18-cv-00460.
12. Exhibit B is a true and correct copy of an email correspondence chain from July 2, 2018 to July 10, 2018 between Ted Hartman and Ben Hulse with Blackwell Burke

and Donald C. Green II with Kennedy Hodges, LLP regarding discussion and explanation of the particular deficiency in this case.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

September 13, 2018

/s/Donald C. Green II  
Donald C. Green II